



Southern Shrimp Alliance

P.O. Box 1577 Tarpon Springs, FL 34688
955 E. MLK Dr. Suite D Tarpon Springs, FL 34689
727-934-5090 Fax 727-934-5362

WRITTEN COMMENTS OF

THE SOUTHERN SHRIMP ALLIANCE

ON

**PRESIDENT BARACK OBAMA'S TRADE POLICY AGENDA AND THE FUTURE OF
U.S. TRADE NEGOTIATIONS**

BEFORE

**COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES**

HEARING DATE: FEBRUARY 29, 2012

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The Southern Shrimp Alliance (SSA) is submitting written comments to the Committee on Ways and Means to emphasize the importance of strengthening food safety protections in future U.S. trade negotiations. In particular, the proposed Trans-Pacific Partnership (TPP) Free Trade Agreement includes Malaysia and Vietnam, countries with seafood exporting industries that present significant food safety issues.

SSA is a non-profit alliance of members of the shrimp industry in eight states committed to preventing the continued deterioration of America's domestic shrimp industry and to ensuring the industry's future viability. SSA serves as the national voice for the shrimp industry in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas.

In a letter to Ambassador Kirk dated March 7, 2012,¹ SSA set out a detailed explanation of its concerns regarding the seafood export industries of Malaysia and Vietnam. Because these concerns can be usefully addressed within the context of the ongoing TPP negotiations, these comments seek to underscore the significance of the challenges presented by the seafood exporting industries of Malaysia and Vietnam to our food safety regulatory system.

Seafood exporters in Malaysia have acted as a conduit of transshipment for tainted Chinese shrimp in order to evade the controls of the U.S. Food and Drug Administration's (FDA) Import Alert 16-131,² as well as evade antidumping duties imposed on Chinese shrimp.³ Under Import Alert 16-131, shrimp exported from China to the United States is subject to detention without physical inspection unless the exporter has met the strict criteria for exclusion for the Import Alert. Rather than meet the criteria for exclusion, some Chinese exporters have worked with Malaysian entities to ship shrimp to the United States declared to be a product of Malaysia. This blatantly illegal activity substantially undermines the efficacy of the FDA's oversight of imported food products.

SSA has identified a number of Malaysian companies that appear to be engaging in transshipment to evade both the FDA's Import Alert and antidumping duties on Chinese shrimp. This has not been difficult, as the evasion schemes are blatant. Indeed, one Malaysian exporter shipped huge quantities of frozen shrimp and barrels of honey to the United States purported to be a product of Malaysia. The exporter shipped nothing else, just shrimp and honey. Both products, when produced and exported from China, are subject to antidumping duties as well as enhanced FDA oversight because of contamination with banned antibiotics.

Nevertheless, although the Malaysian parties participating in these schemes are readily identifiable, U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) officials have repeatedly reported to SSA that the Malaysian government has declined to authorize investigations of these facilities. SSA understands that absent the express consent of Malaysian entities, CBP and ICE investigators cannot validate that merchandise declared to be a product of Malaysia is, in fact, produced in Malaysian facilities. At the same time, refusals to allow CBP and ICE investigations appear to have no negative impact on the ability of Malaysian exporters to ship merchandise to the U.S. market.

As the Administration seeks to conclude a good TPP agreement this year, Malaysia's reported unwillingness to assist in shutting down the circumvention of U.S. food safety laws is indefensible. A change in Malaysia's approach to working with U.S. government officials should be a prerequisite for further TPP discussions.

¹ <http://www.shrimpalliance.com/new/wp-content/uploads/2012/03/Letter-to-USTR-re-TPP.pdf>

² http://www.accessdata.fda.gov/cms_ia/importalert_33.html

³ U.S. Government Accountability Office, "Seafood Fraud: FDA Program Changes and Better Collaboration among Key Federal Agencies Could Improve Detection and Prevention," GAO-09-258 (Feb. 2009) pp. 15, 20.

With respect to Vietnam, SSA has sent two letters to the FDA exhaustively describing the findings of other major seafood importing nations regarding Vietnamese shrimp imports.⁴ Both Japan and Canada have reported a sharp increase in the number of Vietnamese seafood imports found to be contaminated with harmful antibiotics and/or herbicides. In fact, Japan reported that fully eight percent of all of the cases of imported food rejected by the government in 2011 were for Vietnamese shrimp contaminated with harmful antibiotics or herbicides.

As explained in SSA's March 7th Letter to Ambassador Kirk, the problems with Vietnamese seafood exports have significantly worsened. In the first two months of 2012, 22 of Japan's report 175 rejections of imported food have been for Vietnamese shrimp contaminated with antibiotics: 19 for the presence of enrofloxacin, a banned fluoroquinolone, with the remainder rejected for the detection of nitrofurans, Trifluralin, or chloramphenicol. Japan's findings of prevalent fluoroquinolone contamination are mirrored in Canada: The Canadian Food Inspection Agency currently lists 32 Vietnamese seafood exporters on its Mandatory Inspection List for fluoroquinolone.⁵ In turn, according to Vietnamese press reports, Vietnamese seafood exporters admit that banned antibiotics are used in the country's aquaculture and have publicly called on the government to ban these substances.⁶

The FDA responded to the Southern Shrimp Alliance's letters on February 29, 2012. In its response, the agency observed:

Since FDA's last assessment in 2008, Vietnam's competent authority underwent organizational changes. Consequently, a number of regulatory Directives and Decisions that are legally enforceable in Vietnam, including Ministry of Fisheries Decision No. 29/2005/QD-BTS (November 1, 2005) that required all consignments of basa, tra, shrimp and crabmeat to be tested before shipment to the U.S., has not been extended or has been revoked.

Thus, at the same time as the broad contamination of seafood exports with banned antibiotics and herbicides was being confirmed by the Japanese and Canadian governments, the Vietnamese government unilaterally renounced its commitment to test consignments of seafood products to the United States. To no one's surprise, Vietnamese shrimp imports into the U.S. market were worth nearly \$520 million in 2011 – the highest total since 2003.

For Vietnam, a continuing commitment to ensuring the health and safety of American consumers must be a baseline prerequisite for further TPP discussions. Vietnam's unwillingness to continue to safeguard the wholesomeness of its seafood exports to the U.S. market – particularly in light of widespread findings of contamination – is entirely inappropriate.

⁴ <http://www.shrimpalliance.com/new/wp-content/uploads/2011/10/10-5-11-letter-to-FDA-re-Vietnamese-Seafood-Imports1.pdf> and <http://www.shrimpalliance.com/new/wp-content/uploads/2012/01/Vietnamese-Seafood-Imports1.pdf>.

⁵ <http://active.inspection.gc.ca/scripts/fispoi/ial/IALFront.asp?lang=e>.

⁶ Intellasia, "Vietnam Shrimp Exports to US May Face Enrofloxacin Tests," (Jan. 19, 2012), <http://www.intellasia.net/news/articles/business/111354282.shtml>.